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8 Attorneys for Defendant,
SOFTSCAPE, INC.

9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA
11 OAKLAND DIVISION

12 SUCCESSFACTORS, INC, a Delaware
corporation,

13 Plaintiff,

14 vs.

15 SOFTSCAPE, INC., a Delaware corporation,
16 and DOES 1-10, inclusive,

17 Defendants.

Case No. C08-1376 CW (BZ)

DISCOVERY MATTER

**DECLARATION OF DAVID WATKINS
IN SUPPORT OF DEFENDANT'S
OPPOSITION TO PLAINTIFF'S
MOTION TO COMPEL**

Date: September 3, 2008

Time: 10:00 a.m.

Judge: Honorable Bernard Zimmerman

Location: Courtroom G 15th Floor

Complaint Filed: March 11, 2008

Trial Date: June 1, 2009

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23 I, David Watkins, under penalty of perjury, declare as follows:

24 1. I am the President and Chief Executive Office of Softscape, Inc. ("Softscape").

25 2. I am personally familiar with Softscape's trade secrets and confidential and
26 proprietary information.

27 3. Since this litigation was filed by SuccessFactors, Inc. ("SuccessFactor"), Softscape
28 has been deeply concerned that some of its most valuable intellectual property assets, including its

1 confidential customer database, information related to its customer relationships and its sales,
2 marketing and business strategies, may be compromised as a result of discovery. Softscape
3 considers this information and its relationships with its customers as confidential, as well as critical
4 to its success and continuing ability to compete in the marketplace against SuccessFactors and other
5 competitors.

6 4. In particular, Softscape's Customer Database (CRM) and Sales Resource Center
7 (SRC) contains some of Softscape's most valuable confidential and proprietary information, such
8 as a list of Softscape's actual and prospective customers, the contact information of persons at those
9 customers with purchasing authority or influence and control over purchasing decisions, pricing
10 information, margins, customer preferences, needs and specialized requirements, sales strategies,
11 key contracts, competitive matrices showing points of strength and weakness in comparison with
12 our competition, information as to what deals Softscape is working on and Softscape's strategic
13 direction. The CRM is Softscape's entire business pipeline - the lifeblood of the business. The
14 SRC contains customer and prospect communication, practices, sales steps and processes, all
15 supporting documentation for marketing, sales tools and templates, proposals, product pricing,
16 implementation methodologies and project plans. This comprises a lifetime of knowledge gained
17 in the field and is a vital differentiator for Softscape in sales opportunities.

18 5. Softscape and its customers also consider their contracts, agreements and
19 arrangements with its customers as confidential and proprietary as they reflect competitive pricing
20 and the particular needs and requirements of those customers.

21 6. Softscape does not disclose the foregoing confidential and proprietary information to
22 third parties and Softscape takes affirmative steps to maintain the confidentiality of this information
23 and to prevent the disclosure of such information to competitors. Softscape has specific corporate
24 policies concern the use, disclosure and access to this information and notifies its employees
25 concerning the sensitive nature of its relationship with its customers, the confidential and
26 proprietary nature of the information related to these customers, and Softscape's business.
27 Softscape's SRC and CRM are password-protected and all Softscape employees that have access to
28 such information are required to sign non-disclosure agreements.

1 7. I am concerned, even with the existence of the Protective Order in this Action, that
2 the designation of materials as "Outside Attorneys' Eyes Only" will be insufficient to protect
3 Softscape's valuable and sensitive relationships with its customers. SuccessFactors' attorneys may
4 use information obtained from Softscape's CRM and SRC to contact Softscape's current customers
5 or even issue subpoenas to them seeking further information concerning Softscape's business and
6 its relationships with those customer. Such conduct would interfere with Softscape's relationship
7 with those customers and make it more difficult and expensive for Softscape to maintain its
8 relationships with those customers.

9 8. I understand that SuccessFactors is asking the Court to compel Softscape to run
10 searches across all of its imaged media, which totals well over a terabyte of data, for each recipient
11 of the John Anonymous email, which includes over 750 individual email addresses. Their apparent
12 concern is that there may be email addresses and lists kept outside of the CRM. This is an incorrect
13 assumption. All email addresses for Softscape's customers and contacts are maintained in the
14 CRM and it is a company policy that new contacts be uploaded to that database. In other words,
15 Softscape's CRM database contains all of Softscape's customer information and contacts from
16 which any contact or mailing list would be generated. It would be an onerous and senseless
17 exercise to require Softscape to conduct broad searches across its imaged electronic media for
18 additional contact or customer lists.

19 I declare under penalty of perjury that the foregoing is true and correct. Executed this 12th
20 day of August, 2008 at Wayland, Massachusetts.

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22 By: 
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DAVID WATKINS

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